IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

PAUL F. WEINBAUM, and as a parent and guardian
for Olivia S. Weinbaum; MARTIN J. BOYD,

       Plaintiffs,

vs.   No. CIV 05-0996 RB/LAM

CITY OF LAS CRUCES, NEW MEXICO;
et al.,

       Defendants.

O R D E R

THIS MATTER came before the Court on Plaintiffs' Motion for Judgment by Default Against City Defendants (Doc. 23), filed on October 12, 2005. Plaintiffs assert that the City Defendants failed to timely answer the Complaint. Plaintiffs state that the City Defendants' received service of the summons and Complaint on September 19, 2005. A defendant must serve an answer within twenty days of service of the summons and complaint. FED.R.CIV.P. 12(a)(1)(A). The response was due by October 11, 2005. The record establishes that the City Defendants filed and served their Answer to Complaint on September 30, 2005. (Doc. 8.) Because the City Defendants filed and served a timely answer, the Court finds that the motion should be denied.

Plaintiffs failed to seek concurrence of opposing counsel before they filed their motion for judgment by default. The local rules require non-inmate litigants in pro se cases to seek concurrence from each party three days before filing an opposed motion. *See* D.N.M.LR-Civ. 7.4. An opposed motion must recite that concurrence was refused or explain why concurrence could not be obtained. *Id*. A motion that omits recitation of a good-faith request for concurrence may be summarily denied. *Id*. Pro se litigants must follow the rules of procedure that govern other litigants. *Oklahoma Gold*

& Federated Numismatics, Inc. v. Blodgett, 24 F.3d 136, 139 (10th Cir. 1994).   Plaintiffs are

admonished that they must follow all applicable rules of civil procedure in litigating this matter.

WHEREFORE,

        IT IS ORDERED that Plaintiffs' Motion for Judgment by Default Against City Defendants

(Doc. 23), filed on October 12, 2005, is **DENIED**.

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ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE